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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,971	07/14/2003	Richard J. Dibbs	17306/107	5927
26646	7590	05/12/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			VAN, QUANG T	
			ART UNIT	PAPER NUMBER

3742

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/618,971	Applicant(s) DIBBS, RICHARD J.	
	Examiner Quang T Van	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 50-56,86-97 and 100 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50-56,86-97 and 100 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Withdrawal of Allowable Subject Matter

1. The indicated allowability of claims 50-56, 86-97 and 100 is withdrawn in view of the newly discovered reference(s) to Hwang (US 5,078,120 and Polster (US 6,113,961). The Examiner is regretted for any inconvenient. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 56 and 100 are rejected under 35 U.S.C. 102(b) as being anticipated by Polster (US 6,113,961). Polster discloses a grader configured to grade the in-shell egg (col. 2, lines 26-33), an oven configured to increase a temperature of an in-shell egg to a first predetermined temperature in a range of between 1200F and 1400F for a predetermined time interval (col. 10, lines 51-54), a packer configured to pack the in-shell egg (col. 14, lines 62-65).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ball et al (US 6,455,094) cited by applicant, in view of Hwang (US 5,078,120). Ball discloses a treatment of food product using humidity controlled air comprising an oven (col. 8, lines 1-10) configured to increase a temperature of an in-shell egg to a first predetermined temperature is a range of between 120⁰F and 140⁰F for a predetermined time interval (col. 5, lines 5-15 and table 1). However, Ball does not disclose the oven being a spiral oven. Hwang discloses an oven being a spiral oven (figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Ball, an oven being a spiral oven, as taught by Hwang in order to pasteurized plurality of objects at the same time while passing through the oven.

6. Claims 86-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ball et al (US 6,455,094) cited by applicant, in view of Hwang (US 5,078,120) and further in view of Plemons et al (US 4,079,666). Ball/Hwang disclose substantially all features of the claimed invention except a spiral cooler arranged downstream of the oven. Plemons discloses a spiral cooler (70) arranged downstream of the oven (Figure 3, col. 5, lines 1-6 and col. 4, lines 55-59). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Ball/Hwang, a spiral cooler arranged downstream of the oven as taught by Plemons in order to reduced the temperature of the in-shell egg to a second temperature.

7. Claims 88-92, 94 and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polster (US 6,113,961) in view of Ball et al (US 6,455,094) cited by

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applicant. Polster discloses substantially all features of the claimed invention except a cooler arranged downstream of the oven. Ball discloses a cooler (70) arranged downstream of the oven (col. 8, lines 58-65 and col. 14, lines 63-67 and col. 15 lines 1-10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Polster, a spiral cooler arranged downstream of the oven as taught by Ball in order to reduced the temperature of the in-shell egg to a second temperature.

8. Claim 93 is rejected under 35 U.S.C. 103(a) as being unpatentable over Polster (US 6,113,961) in view of Plemons et al (US 4,079,666). Polster discloses substantially all features of the claimed invention except a spiral cooler arranged downstream of the oven. Plemons discloses a spiral cooler (70) arranged downstream of the oven (Figure 3, col. 5, lines 1-6 and col. 4, lines 55-59). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Polster, a spiral cooler arranged downstream of the oven as taught by Plemons in order to reduced the temperature of the in-shell egg to a second temperature.

9. Claim 95 is rejected under 35 U.S.C. 103(a) as being unpatentable over Polster (US 6,113,961) in view of Hwang (US 5,078,120). Polster discloses substantially all features of the claimed invention except the oven being a spiral oven. Hwang discloses an oven being a spiral oven (figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Polster, an oven being a spiral oven, as taught by Hwang in order to pasteurized plurality of objects at the same time while passing through the oven.

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10. Claim 96 is rejected under 35 U.S.C. 103(a) as being unpatentable over Polster (US 6,113,961) in view of Rajapakse (US 6,132,783). Polster discloses substantially all features of the claimed invention except the oven includes a microwave oven. Rajapakse discloses an oven includes a microwave oven (col. 3, lines 63-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Polster, an oven includes a microwave oven, as taught by Rajapakse in order to have a high heating temperature in a short time.

Response to Amendment

11. Applicant's arguments with respect to claims 50-56, 86-97 and 100 have been considered but are moot in view of the new ground(s) of rejection.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QV

May 3, 2005



Quang T Van
Primary Examiner
Art Unit 3742